

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff,
vs.
Roberto Gonzalez-Valencia,
Defendant. } CR-11-1549-PHX-JAT
} FINDINGS AND RECOMMENDATION
} OF THE MAGISTRATE JUDGE UPON
} A PLEA OF GUILTY AND ORDER

TO: THE HONORABLE JAMES A. TEILBORG, UNITED STATES DISTRICT JUDGE

14 Upon Defendant's request to enter a plea of Guilty pursuant to Rule 11 of the
15 Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge
16 by the District Court and came on for hearing before U.S. Magistrate Judge Edward C.
17 Voss on August 10, 2011, with the written consents of the Defendant, counsel for the
18 Defendant, and counsel for the United States of America.

19 The undersigned magistrate judge accepted Defendant's waiver of indictment
20 after inquiry was made of the Defendant as to his understanding of the right to
21 prosecution by indictment that he was waiving. Thereafter, the matter came on for a
22 hearing on Defendant's plea of guilty in full compliance with Rule 11, Federal Rules of
23 Criminal Procedure, before the undersigned magistrate judge in open court and on the
24 record.

25 In consideration of that hearing and the statements made by the Defendant under
26 oath on the record and in the presence of counsel, and the remarks of the Assistant
27 United States Attorney and of counsel for Defendant.

28 || (A) I FIND as follows:

(1) that the Defendant understands the nature of the charge against him to which the plea is offered;

(2) that the Defendant understands his right to trial by jury, to persist in his plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse witnesses, and his right against compelled self-incrimination;

(3) that the Defendant understands what the maximum possible sentence is, including the effect of the supervised release term, and defendant understands that the sentencing guidelines are only advisory and that the court is free to exercise its discretion to impose any reasonable sentence allowed by law;

(4) that the plea of Guilty by the Defendant has been knowingly and voluntarily made and is not the result of force or threats or of promises apart from the plea agreement between the parties;

(5) that the Defendant is competent to plead guilty;

(6) that the Defendant understands that his answers may later be used against him in a prosecution for perjury or false statement;

(7) that the Defendant understands that by pleading guilty he waives the right to a trial, the right to a direct appeal, and the right to a collateral attack; and,

(8) that there is a factual basis for the Defendant's plea;

(9) Defendant is satisfied with his/her lawyer's representation in all aspects of the Defendant's case at this time; and further,

(B) I RECOMMEND that the plea of guilty to the Information be accepted subject to the Court's acceptance of the plea agreement which shall remain lodged with the Court pending Judge Teilborg's decision whether to accept or reject the plea agreement after review of the presentence report.

ORDER

IT IS ORDERED that any objection(s) to the guilty plea proceedings and any request(s) for supplementation of those proceedings be made by the parties in writing and shall be specific as to the objection(s) or request(s) made. All objections or requests

1 for supplementation shall be filed within fourteen (14) days of the date of service of a
2 copy of these findings unless extended by an Order of the assigned district judge.

3 IT IS FURTHER ORDERED that any letters, documents, or other matters
4 defendant would like the sentencing judge to consider before sentencing (including the
5 English translation of any writings not in English) must be submitted in paper form with
6 the original to the probation office and copies to the sentencing judge and opposing
7 counsel no later than seven (7) business days prior to the sentencing date or they may
8 be deemed untimely by the sentencing judge and not considered. (ECF Manual, II § N
9 at 24)

10 IT IS FURTHER ORDERED that any motions for upward or downward departures
11 or any sentencing memoranda must be filed at least seven (7) business days prior to the
12 sentencing date. Responses are due three (3) business days prior to the sentencing
13 date. Any motion to continue sentencing must be filed promptly upon discovery of the
14 cause for continuance and must state the cause with specificity. Motions to continue
15 sentencing filed less than fourteen (14) days before sentencing are disfavored.

16 DATED this 10th day of August, 2011.
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20 Edward C. Voss
United States Magistrate Judge
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26 Copies to: AUSA, Defense Counsel
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